debted to the corporation is valid, although inconsistent with the general law of the state governing the transfer of property. *Farmer's Bank v. Wasson,* 48 Iowa 336; *Mechanics Bank v. Merchants Bank,* 45 Mo. 513.

CORPORATIONS—ACTIONS BY RECEIVERS—SET OFF.—COURTRIGHT ET AL. V. VREELAND, 117 N. Y. SUPP. 952.—*Held,* that where receivers of a corporation appointed in Pennsylvania sued in New York on an undertaking of defendant and another to pay damages sustained by the corporation from an attachment, alleging the assignment of the claim to them by the corporation, defendant could set off a judgment obtained in New York against the corporation, assigned to defendant before the assignment of the claim sued on to plaintiffs, but after their appointment as receivers.

On the appointment of receivers for an insolvent corporation, the rights of the corporation and its creditors who are under the jurisdiction of the appointing court become fixed. *Colt v. Brown,* 12 Gray (Mass.) 233. Accordingly, claims against the corporation which are assigned to debtors of the corporation after the appointment of receivers cannot be advanced by way of set off. *Ogden v. Cowley,* 2 Johns. (N. Y.) 273; *Long v. Penn. Ins. Co.,* 6 Pa. St. 421. If the debtor to be pursued must be sued in another jurisdiction, however, the case is different. It is well established that in the absence of statute, the debtor of an insolvent corporation may set off claims of his against the corporation which have accrued to him personally before the appointment of the receivers. *Wheaton v. Daily Telegraph Co.,* 124 Fed. 61; *Mix v. Ellis,* 118 Ga. 345. So, although states, by comity, often do recognize the appointment of receivers in other jurisdictions, they generally will not recognize such appointment when by doing so they would interfere with the rights of local creditors. *Booth v. Clark,* 17 How. (U. S.) 331; *Blake v. Williams,* 6 Pick. 285.

MUNICIPAL CORPORATIONS—OFFICERS—COMPENSATION—PAYMENT TO OFFICER DE FACTO.—STEARNS V. SIMS, 104 PAC. 44 (OKLA.).—*Held,* that where a *de jure* chief of police of a city is pending suit on charges against him in the district court, wrongfully suspended by order of the judge thereof at chambers, which said order is later set aside and said suit dismissed, and where said city pays a substitute chief of police *de facto,* during his incumbency, the salary provided by law, the original officer *de jure* after obtaining possession of the office cannot recover from the city the salary for the same period.

The preponderance of authority is with the above case and holds that a *de jure* officer cannot recover salary from a municipal corporation, which has been paid to a *de facto* official for services rendered during suspension of the officer *de jure. Chicago v. Luthardt,* 191 Ill. 516; *Newark v. McDonald,* 58 N. J. L. 12; *Seifen v. Racine,* 129 Wis. 343. In *Westberg v. Kansas City,* 64 Mo. 493, the court holds that whether removed or suspended the *de jure* officer was not entitled to recover his salary or any part thereof from date of suspension. On the other hand, numerous jurisdictions hold that *de jure* officers can recover their compensation from the

municipal corporation when suspended without cause. *Emmett v. New York,* 128 N. Y. 217; *Andrews v. Portland,* 73 Me. 484. Several jurisdictions rule that the salary of an office is an incident to its title and not to its occupation. *Carroll v. Siebenthaler,* 37 Cal. 193; *Tanner v. Utah,* 31 Utah 80. *Contra*: *Gorman v. County,* 1 Idaho 655. holds that the right to compensation is an incident to the service rendered and not to the office. In some states where the *de jure* official cannot recover his salary from the municipal corporation, the *de facto* officer is liable to the officer *de jure* for the salary wrongfully received. *Coughlin v. McElroy,* 74 Conn. 397.

CRIMINAL LAW—IDENTITY—IDENTITY OF PERSONS.—STATE V. LEPITRE, 103 PAC. 27 (WASH.).—*Held,* that on an issue of the defendant's identity, as the person alleged to have been previously convicted, identity of name was *prima facie* evidence of the identity of the person and sufficient to establish a *prima facie* case.

It is an inference of fact that identity of name indicates an indentity of person. *Lee v. Murphy,* 119 Cal. 364. But some doubt has been intimated as to whether the mere identity of name would make out a *prima facie* case without further proof of corroborating circumstances. *2 Greenleaf on Evidence,* Sect. 278 d. And very slight evidence may be sufficient to overcome the presumption of identity of person raised by the identity of name. *Morris v. McClary,* 43 Minn. 346. There is old authority to the effect that in criminal cases the presumption of innocence without additional proof is sufficient to overcome this presumption of identity of person. *Wedgwood's Case,* 8 Me. 75. But the more modern rule would seem to be contrary. *State v. McGuire,* 87 Mo. 642.

CRIMINAL LAW—EVIDENCE—OPINION.—STATE V. HAMILTON, 49 SOUTHERN REPORTER, 1004 (LA.).—In a case of homicide, an eye-witness was asked his opinion as to which of the parties to the difficulty was in the most danger of being shot. *Held,* inadmissible. Monroe, J., *dissenting.*

Generally, testimony of opinion is excluded except in a few cases. *Taylor on Evidence,* Sect. 1414. But in some cases, opinions formed from personal observations may be admissible as being the best evidence that the nature of the case admits of. *DeWitt v. Barley,* 17 N. Y. 340. There are certain qualifications to the admission of such evidence. The witness' opportunity of observation must first justify an opinion. *State v. Baldwin,* 36 Kans. 1. Furthermore, if the opinion of a witness is allowed, the opinion must be based upon matter such as men in general are capable of comprehending. *Russell v. State,* 66 Neb. 497. And if the facts and circumstances can be so clearly defined by testimony that the jury can form a correct conclusion therefrom, the opinion of the witness will not be allowed. *Thomas v. State,* 122 Ga. 151; *State v. Foley,* 144 Mo. 600; *State v. Musgrave,* 43 W. Va. 672. In any instance, a question calling for the opinion of a non-expert will be carefully scrutinized. *Territory v. Claypool,* 11 N. M. 568.

DAMAGES—PERSONAL INJURIES—FUTURE MENTAL SUFFERING—INSTRUCTIONS.—UNITED STATES EXPRESS CO. V. WAHL. 168 FED. 848 (OHIO).